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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,382	10/25/2005	Franz Amtmann	AT 030027	7932
65913	7590	09/24/2008	EXAMINER	
NXP, B.V. NXP INTELLECTUAL PROPERTY DEPARTMENT M/S41-SJ 1109 MCKAY DRIVE SAN JOSE, CA 95131			LU, ZHIYU	
			ART UNIT	PAPER NUMBER
			2618	
			NOTIFICATION DATE	DELIVERY MODE
			09/24/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/554,382	<b>Applicant(s)</b> AMTMANN ET AL.	
	<b>Examiner</b> ZHIYU LU	<b>Art Unit</b> 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Specification***

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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2. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 provides for the use of a circuit with regard to its send mode, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim 11 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7 and 10-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Roz (US Patent#6462647).

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Regarding claim 1, Roz anticipates a circuit for a first communication partner appliance designed for contactless communication,

which first communication partner appliance belongs to a communication system comprising at least one second such communication partner appliance, in which circuit either an active send mode or a passive send mode may be activated (column 1 lines 3-15) and

wherein the circuit comprises terminal means, which are provided to transmit carrier signals usable for contactless communication (32 of Fig. 3), and

wherein the circuit comprises communication signal processing means, with which communication signal processing means a carrier signal generated with the communication signal processing means may be used for sending communication when the active send mode is activated (36 of Fig. 3, column 4 lines 16-25, modulation-demodulation circuit), and

with which communication signal processing means a carrier signal generated with a second communication partner appliance and received by the circuit via the terminal means may be used for sending communication when the passive send mode is activated (passive mode, column 1 lines 20-29, column 4 lines 30-37), and

wherein the circuit comprises determination means which are designed to determine first energy source information which first energy source information is characteristic of at least one parameter of at least one energy source (38 or 40 of Fig. 3) serving to supply the circuit with electrical energy (42, 46, & 50 of Fig. 3, column 4 line 45 to column 6 line 57), and

wherein the circuit comprises decision means which are designed to form a decision result taking account of the first energy source information determined using the determination

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means, which decision result influences which send mode is to be activated in the circuit of the first communication partner appliance (column 7 line 65 to column 9 line 29).

Regarding claim 11, Roz anticipates a method of controlling a circuit with regard to its send mode as explained in response to claim 1 above.

Regarding claims 2 and 12, Roz anticipates the limitations of claims 1 and 11.

Roz anticipates wherein the determination means are designed to determine first value information, which first value information is characteristic of the value of the energy available for supplying the circuit and which first value information is contained in the first energy source information (column 4 lines 47-65).

Regarding claims 3 and 13, Roz anticipates the limitations of claims 1 and 11.

Roz anticipates wherein the determination means are designed to determine first type information, which first type information is characteristic of the type of energy source serving to supply the circuit and which first type information is contained in the first energy source information (50 of Fig. 3, column 5 line 29 to column 6 line 27).

Regarding claims 4 and 14, Roz anticipates the limitations of claims 1 and 11.

Roz anticipates wherein the decision means are additionally designed to form the decision result taking account of second energy source information available in the circuit but determined in a

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circuit of a second communication partner appliance, which second energy source information is characteristic of at least one parameter of at least one energy source serving to supply the circuit of the second communication partner appliance with electrical energy, which decision result influences which send mode is to be activated in the circuit of the first communication partner appliance (column 2 lines 19-25, column 4 line 16 to column 6 line 27). It is known that storage means (40 of Fig. 1) depends on electric signal originating from the second communication partner appliance. When storage means has received sufficient electric power from rectifier circuit for supplying the transponder, it means that the radio signal transmitted by the second communication partner appliance is in an interrogation mode or active mode. So, the decision result is also considered as taking account of energy source information determined in the second communication partner appliance.

Regarding claims 5 and 15, Roz anticipates the limitations of claims 4 and 14.

Roz anticipates wherein the decision means are additionally designed to form the decision result taking account of second value information available in the circuit but determined in the circuit of the second communication partner appliance, which second value information is contained in the second energy source information determined in the circuit of the second communication partner appliance (as explained above in response to claims 4-14, wherein decision result is taking account of energy information determined in the circuit of the second communication partner appliance, and the value information is definitely high to be selected as energy source of the second communication partner appliance).

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Regarding claims 6 and 16, Roz anticipates the limitations of claims 4 and 14.

Roz anticipates wherein the decision means are additionally designed to form the decision result taking account of second type information available in the circuit but determined in the circuit of the second communication partner appliance, which second type information is contained in the second energy source information determined in the circuit of the second communication partner appliance (as explained in response to claims 4 and 14 above).

Regarding claims 7 and 17, Roz anticipates the limitations of claims 1 and 11.

Roz anticipates wherein the decision means are designed to communicate the decision result to the second communication partner appliance with the aid of the communication signal processing means (column 3 lines 30-37, line 63 to column 4 line 25, where selected energy source supplying the transponder).

Regarding claim 10, Roz anticipates a communication partner appliance having a circuit as claimed in claim 1 (as explained in response to claim 1 above).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



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4. Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roz (US Patent#6462647) in view of Yewen (US2004/0201539).

Regarding claims 8 and 18, Roz teaches the limitations of claims 1 and 11.

Roz teaches wherein control means are provided, which are designed to receive the decision result and which, if according to the decision result the send mode other than the previously activated send mode is to be activated, are designed to terminate the previously activated send mode (column 2 line 56 to column 3 line 37).

But, Roz does not expressly disclose terminating a communication protocol used therefor, and to activate the send mode to be activated according to the decision result, restarting the stated communication protocol.

However, it would have been obvious to one of ordinary skill in the art to recognize that switching from passive mode into active mode for interrogation would terminate a communication protocol used and start a new communication protocol.

Yewen teaches a RF transponder system has two RFID devices in communication that switch modes between active and passive in term of interrogation and response (paragraphs 0023-0026).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporating the circuit of Roz into the communication circumstance of having switching between interrogation and response taught by Yewen, into utilize bidirectional communication.

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5. Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roz (US Patent#6462647).

Regarding claims 9 and 19, Roz teaches the limitations of claims 1 and 11.

Roz teaches wherein control means are provided, which are designed to receive the decision result and which, if according to the decision result the same send mode as the previously activated send mode is to be activated, are designed to maintain the previously activated send mode, with termination and subsequent restart of a communication protocol used (obviously the circuit would use the same passive send mode with the same previously used response communication protocol when second communication partner appliance sends interrogation signal again).

### *Conclusion*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ZHIYU LU whose telephone number is (571)272-2837. The examiner can normally be reached on Weekdays: 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571) 272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Z. L./  
Examiner, Art Unit 2618

/Nay A. Maung/  
Supervisory Patent Examiner, Art Unit  
2618

Zhiyu Lu  
September 10, 2008